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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,259	04/05/2005	Ikuo Tachibana	P1299US	4694
1218 7590 10/01/2007 CASELLA & HESPOS 274 MADISON AVENUE NEW YORK, NY 10016			EXAMINER RODGERS, PATRICK G	
			ART UNIT	PAPER NUMBER
			1709	
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			10/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/530,259

Applicant(s)

TACHIBANA, IKUO

Examiner

Patrick G. Rodgers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 and 4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 3 and 4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 05 April 2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

1. This is the initial Office action based on the 10/530,259 application filed on October 17, 2003. Claims 3 and 4 are currently pending and have been considered below.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: '10,' p.5, [0082]. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 4 objected to because of the following informalities: Claim 4 references claim 1, which has been previously canceled by applicant. Examiner will treat claim 4

as if it is referencing claim 3, not claim 1. However, appropriate correction is required prior to potential allowance of said claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 3 and 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Brandon et al (US patent number 5766389) in view of Freiburger (International publication number: WO 01/13848).

Regarding claim 3, Brandon teaches:

continuously feeding said front stretchable multilayer member and said rear stretchable multilayer member [(Brandon, col. 3 lines 30-33), providing a continuously moving first layer including a plurality of components, providing a continuously moving second layer

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including a plurality of components], with a given distance there between [(Brandon, col. 6 line 1, one machine product repeat length];

Preparing said absorbent body (the examiner notes that prior to being supplied said absorbent body must inherently have been prepared);

bonding a rear end portion of said absorbent body to said rear stretchable multilayer member; [Brandon explicitly describes (col. 11, lines 14-20) that it is well known in the art to separate and position individually cut absorbent pads onto a continuously moving layer, and any such suitable mechanism can be utilized herein];

Brandon further teaches:

superimposing [(Brandon, col. 3, lines 64-67) joining a continuously moving third layer to the one continuously moving layer (in this case the continuously moving layers are: (third layer (3), continuously moving prepared absorbent body layer), (first layer (1), continuously moving rear stretchable multilayer), and (second layer (2), continuously moving front stretchable multilayer), superimposing the continuously moving one (1) and third (3) layers and the continuously moving other (2) layer together], said front stretchable multilayer member and said rear stretchable multilayer member in such a manner that they be located on opposite sides of said absorbent body, and joining respective portions of said superimposed stretchable multilayer members to be formed as lateral edges of said disposable wearing article, [(Brandon, col. 8 lines 30-40), Each elastic side panel '18' is formed from two separate elastic portions (Fig. 2A) and are suitably joined together, such as by ultrasonic bonding to form a side seam (Fig. 2, '20')];

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Brandon does not teach: forming at least one cutting line in said front stretchable multilayer member or the use or instillation of a detachably engaging fastening system.

However, Freiburger (International publication number: WO 01/13848) teaches:

Forming at least one cutting line in said front stretchable member,

Wherein said method includes detachably engaging said front stretchable multilayer member and said absorbent body (Freiburger, col. 5 lines 22-26) together using a fastening member (Fig. 2, '54, '), wherein said at least one cutting line (Freiburger, col. 4 line 25, a line of perforations '46,' Fig. 1) is formed to through a superimposed portion of said front stretchable multilayer member and said absorbent body (Freiburger, col. 4, lines 24-27 and Fig. 1, '46').

Note the two references Brandon and Freiburger are analogous art because they both are from the same field of endeavor of disposable absorbent articles and processes of manufacturing such articles. At the time of the invention it would have been obvious to one of ordinary skill in the disposable absorbent article manufacturing art, having the teachings of Brandon and Freiburger before him or her, to modify the method of making the disposable absorbent article of Brandon to include the detachably engaging fastening system and the cutting line of Freiburger because the line of perforation is advantageous to secure different members together so as to facilitate high-speed production of said absorbent articles (Freiburger, col. 4 lines 20-26); The detachable refastening system is an obvious improvement to permit means of inspection, by a parent or caregiver for instance, without having to completely change the absorbent article.

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Regarding claim 4, Brandon in view of Freiburger teaches:

The method as defined in claim 3, as referenced above, and

wherein said fastening member is adapted to allow said disposable wearing article in the state after said stretchable multilayer member formed with said cutting line is cut open to be reconstructed and used in a pant-like configuration [(Freiburger, col. 2 lines 5-7), each of the outer edges of the first and second lateral sections are secured to one of the first and second side edges of the back portion to form a pant-like article having a waist opening and a pair of leg openings]. A product that can be applied either like a diaper or a pant permits the interior of the product to be easily checked without having to pull the product downward. Therefore, it would have been obvious to one of ordinary skill in the art to combine Brandon with Freiburger to obtain the invention as specified in the instant claims 3 and 4.

6. Claims 3 and 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Brandon et al (US patent number 5766389) in view of Takamitsu (Japanese publication number: 05-317356).

Regarding claim 3, Brandon teaches:

continuously feeding said front stretchable multilayer member and said rear stretchable multilayer member [(Brandon, col. 3 lines 30-33), providing a continuously moving first layer including a plurality of components, providing a continuously moving second layer

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including a plurality of components], with a given distance there between [(Brandon, col. 6 line 1, one machine product repeat length].

Preparing said absorbent body (the examiner notes that prior to being supplied said absorbent body must inherently have been prepared);

bonding a rear end portion of said absorbent body to said rear stretchable multilayer member; [Brandon explicitly describes (col. 11, lines 14-20) that it is well known in the art to separate and position individually cut absorbent pads onto a continuously moving layer, and any such suitable mechanism can be utilized herein];

Brandon further teaches:

superimposing [(Brandon, col. 3, lines 64-67) joining a continuously moving third layer to the one continuously moving layer (in this case the continuously moving layers are: (third layer (3), continuously moving prepared absorbent body layer), (first layer (1), continuously moving rear stretchable multilayer), and (second layer (2), continuously moving front stretchable multilayer), superimposing the continuously moving one (1) and third (3) layers and the continuously moving other (2) layer together], said front stretchable multilayer member and said rear stretchable multilayer member in such a manner that they be located on opposite sides of said absorbent body, and joining respective portions of said superimposed stretchable multilayer members to be formed as lateral edges of said disposable wearing article, [(Brandon, col. 8 lines 30-40), Each elastic side panel '18' is formed from two separate elastic portions (Fig. 2A) and are suitably joined together, such as by ultrasonic bonding to form a side seam (Fig. 2, '20')];

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Brandon does not teach: forming at least one cutting line in said front stretchable multilayer member or the use or instillation of a detachably engaging fastening system.

However, Takamitsu teaches,

Forming at least one cutting line in said front stretchable multilayer member,

Wherein said method includes detachably engaging said front stretchable multilayer member and said absorbent body together using a fastening member (Takamitsu, paragraph [0010], adherence part '5,' (drawing 1) as an engagement part) wherein said at least one cutting line is formed to through a superimposed portion (Takamitsu [0006], lines 4-5) of said front stretchable multilayer member and said absorbent body [0008].

Note the two references Brandon and Takamitsu are analogous art because they both are from the same field of endeavor of disposable absorbent articles and processes of manufacturing such articles.

At the time of the invention it would have been obvious to one of ordinary skill in the art, having the teachings of Brandon and Takamitsu before him or her, to modify the method of making the disposable absorbent article of Brandon to include the line of cutting plane of Takamitsu so that the front body of said absorbent article can be separated from the back body of said absorbent article (Takamitsu, [0010], lines 9-11).

The detachably engaging fastening system, (including the cutting plane), is an obvious improvement to permit means of inspection, by a parent or caregiver for instance, without having to completely change the absorbent article.

Regarding claim 4, Brandon in view of Takamitsu teaches:

The method as defined in claim 3, as referenced above, and

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wherein said fastening member is adapted to allow said disposable wearing article in the state after said stretchable multilayer member formed with said cutting line is cut open to be reconstructed and used in a pant-like configuration (Takamitsu, [0013] and [0016], According to the diaper concerning this invention, the wear approach of either a trousers type or an open type can be chosen).

A product that can be applied either like a diaper or a pant permits the interior of the product to be easily checked without having to pull the product downward. Therefore, it would have been obvious to one of ordinary skill in the art to combine Brandon with Takamitsu to obtain the invention as specified in the instant claims 3 and 4.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, Olson et al (US patent number 6645190). Olsen discusses an absorbent article with a refastenably engaging mechanism system. Vogt et al (US patent number: 6,113,717) and Karami et al (US publication number: 2001/0042584) also relate to methods of producing absorbent articles.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick G. Rodgers whose telephone number is (571) 270-5046. The examiner can normally be reached on M-F 0730-1700 alt. Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Del Sole can be reached on (571) 272-1130. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PGR


JOSEPH DEL SOLE
SUPERVISORY PATENT EXAMINER
9/27/07